

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HUNTERS CAPITAL, LLC, et al.,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

Case No. 20-cv-00983

**DECLARATION OF SHANE P. CRAMER  
IN SUPPORT OF MOTION FOR  
SPOILIATION SANCTIONS AGAINST  
PLAINTIFFS HUNTERS CAPITAL;  
RICHMARK LABEL; MATTHEW  
PLOSZAJ; CAR TENDER; BERGMAN'S  
LOCK & KEY; WADE BILLER; AND  
ONYX HOMEOWNERS ASSOCIATION**

I, Shane P. Cramer, declare as follows:

1. I am one of the attorneys representing the City of Seattle in this action. I am over age 18, competent to be a witness, and making this declaration based on facts within my own personal knowledge.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts from the deposition of Michael Malone, taken in this matter on August 22, 2022.

3. Attached as **Exhibit 2** is a true and correct copy of an email and letter dated December 23, 2021 from plaintiffs' counsel, Gabe Reilly-Bates, regarding Mr. Malone's text messages.

DECLARATION OF SHANE P. CRAMER IN SUPPORT OF  
MOTION FOR SPOILIATION SANCTIONS AGAINST  
CERTAIN PLAINTIFFS - 1  
(Case No. 20-cv-00983)

LAW OFFICES  
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1           4.       On March 26, 2021, I participated in a call with my former colleague, Kristin  
2 Ballinger, and counsel for Plaintiffs, including Tyler Weaver, Andrew DeCarlow, and Harold  
3 Malkin. During that call on March 26, 2021 we disclosed to Plaintiffs' counsel for the first time  
4 that certain City employees, including Mayor Durkan, Chief Best, Fire Chief Scoggins, Idris  
5 Beauregard, Kenneth Neafcy, and Chris Fisher, no longer had their text messages from June 2020,  
6 due to various circumstances with their phones.

7           5.       Attached as **Exhibit 3** is a true and correct copy deposition exhibit number 193  
8 from the August 22, 2022 deposition of Michael Malone. The document is a spreadsheet of Jill  
9 Cronauer's text messages that were produced in this matter. We have highlighted the rows  
10 containing messages sent to or from Mr. Malone, for the Court's reference. To make the document  
11 more legible, the last three columns of the spreadsheet that did not contain substantive information  
12 were deleted.

13           6.       Attached as **Exhibit 4** is a true and correct copy of deposition exhibit number 194  
14 from the August 22, 2022 deposition of Michael Malone. The document is a spreadsheet of  
15 Michael Oaksmith's text messages that were produced in this matter. We have highlighted the  
16 rows containing messages sent to or from Mr. Malone, for the Court's reference. To make the  
17 document more legible, the last three columns of the spreadsheet that did not contain substantive  
18 information were deleted.

19           7.       Attached as **Exhibit 5** are true and correct copies of text messages between  
20 Mr. Malone and Former Seattle Mayor Jenny Durkan, using her personal phone. These documents  
21 were produced in this matter by Mayor Durkan's counsel in response to a subpoena issued by  
22 Plaintiffs.

23           8.       Attached as **Exhibit 6** is a true and correct copy of excerpts from the deposition of  
24 Ms. Cronauer, taken in this matter on September 30, 2021.

25           9.       Attached as **Exhibit 7** are true and correct copies of text messages screenshots

1 between the owner of Havana Hospitality Group, Inc. and Ms. Cronauer between March –  
 2 September 2020, and between the owner of Havana Hospitality Group and Mr. Oaksmith on  
 3 June 15, 2020. These text messages were produced in this matter by Havana Hospitality Group,  
 4 Inc. in response to the City’s third-party subpoena and were Bates numbered by Plaintiffs’ counsel  
 5 HAVANA-000014-15, HAVANA-000017-26, and HAVANA-000143.

6 10. Attached as **Exhibit 8** is a true and correct copy of an email exchange dated May 1  
 7 – May 8, 2020 between Zoe Rowell of The Riveter and Jill Cronauer of Hunters Capital. This  
 8 document was produced in this matter by The Riveter in response to the City’s third-party  
 9 subpoena and was Bates numbered by the City’s counsel for tracking purposes RIVETER\_000076-  
 10 77.

11 11. Attached as **Exhibit 9** is a true and correct copy of an emails between members of  
 12 The Stable and Hunters Capital between May and July 2020. These documents were produced in  
 13 this matter by The Stable in response to the City’s third party subpoena and were Bates numbered  
 14 by The Stable’s counsel Stable\_Subpoena\_Response\_006 – 011 and  
 15 Stable\_Subpoena\_Response\_014 – 017.

16 12. Attached as **Exhibit 10** is a true and correct copy of an email exchange between the  
 17 owner of Poquito’s LLC and Ms. Cronauer dated September – October 2021. This document was  
 18 produced in this matter by Poquitos in response to the City’s third party subpoena and was Bates  
 19 numbered by Plaintiffs’ counsel POQUITOS-000009. This exhibit is being filed under seal.

20 13. Attached as **Exhibit 11** is a true and correct copy of a letter dated July 21, 2021  
 21 from Plaintiffs’ counsel, Tyler Weaver, to my former colleague, Kristin Ballinger, regarding text  
 22 and Signal message issues.

23 14. Attached as **Exhibit 12** is a true and correct copy of excerpts from Plaintiffs’  
 24 Objections, Answers and Responses to City of Seattle’s Fifth Discovery Requests dated  
 25 February 7, 2022.

1           15. Attached as **Exhibit 13** is a true and correct copy of excerpts from the deposition of  
2 Bill Donner, taken in this matter on November 16, 2021.

3           16. Attached as **Exhibit 14** is a true and correct copy of excerpts from the deposition of  
4 Wade Biller, taken in this matter on December 10, 2021.

5           17. Attached as **Exhibit 15** is a true and correct copy of excerpts from the deposition of  
6 Lonnie Thompson, taken in this matter on May 4, 2021.

7           18. Attached as **Exhibit 16** is a true and correct copy of an October 11, 2016 Signal  
8 Blog detailing the “latest Signal release for iPhone, Android, and Desktop now includes support  
9 for disappearing messages”. This article was retrieved on September 28, 2022 at:

10 <https://signal.org/blog/disappearing-messages/>.

11           19. Attached as **Exhibit 17** is a true and correct copy of excerpts from the deposition of  
12 LaRisa DeYoung, taken in this matter on September 19, 2022.

13           20. Attached as **Exhibit 18** is a true and correct copy of excerpts from the deposition of  
14 John McDermott, taken in this matter on January 19, 2022.

15           21. Attached as **Exhibit 19** is a true and correct copy of excerpts from a printout of the  
16 Signal data of non-party Stephanie Moore, which was produced by Plaintiffs in native Excel and  
17 Bates numbered CHOP-0028732. The native Excel was sorted by “GroupName.” Pages of the  
18 printout that include messages sent by plaintiffs have been excerpted and attached hereto. These  
19 printouts show that the following plaintiffs and employees of plaintiffs were active on the Signal  
20 messaging app as of at least the below dates:

- 21           • **Jill Cronauer** (Hunters Capital owner and operations manager) – June 26, 2020  
22           (see Ex. 19 at p. 26.);
- 23           • **Kayla Stevens** (Hunters Capital Residential Leasing Manager) – June 25, 2020  
24           through July 1, 2020 (see Ex. 19 at pp. 24, 25, 38);
- 25           • **Wade Biller** (Plaintiff and Representative for Plaintiff Onyx Homeowners

Association) – July 25, 2020 through December 21, 2020. (*see* Ex. 19 at pp. 117, 205). Ms. Moore’s data shows that Mr. Biller sent approximately 1,300 Signal messages between July 25 and December 21, 2020.

- **Elle Lochelt** (Richmark Label’s Sales and Marketing Manager) – June 19, 2020 through August 12, 2020; (*see* Ex. 19 at pp. 11, 13, 16, 18, 19, 21, 23, 25- 27, 30, 35-37, 45, 47);
- **Matthew Ploszaj** (Plaintiff) – October 2, 2020 November 2, 2020 (*see* Ex. 19 at pp. 93-98, 101, 102, 109);
- **John McDermott** (Car Tender Co-Owner) – September 18, 2020 through November 8, 2020 (*see* Ex. 19 at pp. 78, 114).

22. Attached as **Exhibit 20** is a true and correct copy of an email exchange between Bill Donner and Alan Anderson, both of Richmark Label, dated June 11, 2020. This document was produced in this matter by Plaintiffs under Bates number CHOP-0005671 and was marked as Exhibit 86 to the November 16, 2021 deposition of Mr. Donner.

23. Attached as **Exhibit 21** is a true and correct copy of an email exchange between Bill Donner of Richmark Label and Gary Volchok, dated June 11-12, 2020. This document was produced in this matter by Plaintiffs under Bates number CHOP-0005676 – 0005677 and was marked as Exhibit 90 to the November 16, 2021 deposition of Mr. Donner.

24. Attached as **Exhibit 22** is a true and correct copy of an email exchange between Bill Donner of Richmark Label and Doug Glant, dated June 19-20, 2020. This document was produced in this matter by Plaintiffs under Bates number CHOP-0005545.

25. Attached as **Exhibit 23** is a true and correct copy of an email exchange between Bill Donner of Richmark Label and Wendy Rosen, dated June 17, 2020. This document was produced in this matter by Plaintiffs under Bates number CHOP-0005544.

26. Attached as **Exhibit 24** is a true and correct copy of excerpts from Plaintiffs’

Hunters Capital, LLC's Answers and Responses to Defendant City of Seattle's First Discovery Requests, dated January 15, 2021.

27. Attached as **Exhibit 25** is a true and correct copy of excerpts from Plaintiffs' Objections, Answers and Responses to City of Seattle's Sixth Discovery Requests, dated March 28, 2022.

28. On September 27, 2022, and at various other times in this case, counsel have met and conferred in good faith regarding the bases for the City's spoliation claims, but were not able to reach agreement that would have obviated the need for the filing of the City's motion. During the parties' meet and confer on September 27, 2022, I provided Plaintiffs' counsel with the Bates numbers for the third party documents that contain their emails and texts with Jill Cronauer that had not been produced by Hunters Capital. I asked Plaintiffs counsel to confirm that they had not been deleted and to provide copies before September 29, 2022 if they still existed. We received no such copies from Hunters Capital as of the time of the preparation of this motion for filing.

I swear under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED this 29<sup>th</sup> day of September 2022, at Seattle, Washington.

s/ Shane P. Cramer  
SHANE P. CRAMER